



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

July 16, 2014

REPLY TO THE ATTENTION OF:

LC- 8J

CERTIFIED MAIL

Receipt No. 7009 1680 0000 7649 6773

Mr. Arthur Bedford
Bedford Farm Supply, LLC
5425 120th Avenue
Morley, Michigan 49336

Consent Agreement and Final Order In the Matter of
Bedford Farm Supply, LLC. Docket No. FIFRA-05-2014-0025

Dear Mr. Bedford:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on July 16, 2014 with the Regional Hearing Clerk.

The civil penalty in the amount of \$3,050 is to be paid in the manner described in paragraphs 27 through 29. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by August 15, 2014 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

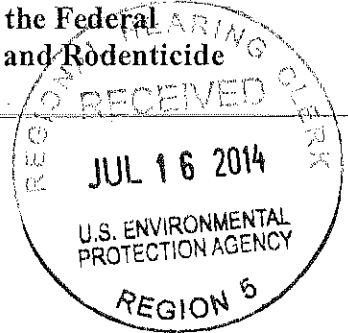
Terence Bonace

Terence Bonace
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

| | | |
|--------------------------|---|---|
| In the Matter of: |) | Docket No. FIFRA-05-2014-0025 |
| |) | |
| Bedford Farm Supply, LLC |) | Proceeding to Assess a Civil Penalty |
| Morley, Michigan |) | Under Section 14(a) of the Federal |
| |) | Insecticide, Fungicide, and Rodenticide |
| Respondent. |) | Act, 7 U.S.C. § 136l(a) |



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Bedford Farm Supply, LLC, a limited liability corporation doing business in the State of Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y.

Statutory and Regulatory Background

10. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states that it is unlawful for any person in any state to distribute or sell to any person any registered pesticide which is adulterated or misbranded.

11. Section 2(q)(1)(F), 7 U.S.C. § 136(q)(1)(F), defines a pesticide as “misbranded” if its labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under Section 3(d) of FIFRA, is adequate to protect health and the environment.

12. The term “distribute or sell” means “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.” 7 U.S.C. § 136(gg).

13. The term “person,” as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s), means “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

14. A "pesticide" is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u).

15. A "pest" is any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism which the Administrator of EPA declares to be a pest under Section 25(c)(1) of FIFRA. 7 U.S.C. § 136(t).

16. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide. 40 C.F.R. § 152.15(a)(1).

17. The Administrator of EPA may assess a civil penalty against any registrant who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

18. Respondent is a "person" as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

19. Respondent owned or operated a place of business located at 5425 120th Avenue, Morley, Michigan during the calendar year 2012.

20. On June 12, 2012, an inspector employed by the Michigan Department of Agriculture and Rural Development and authorized to conduct inspections under FIFRA conducted an inspection at Respondent's place of business.

21. During the June 12, 2012 inspection, the inspector collected a label and a shipping record for the product ECHO®720, EPA Reg. No. 60063-7.

22. On or about May 31, 2012, Respondent distributed or sold a pesticide, ECHO®720 that was misbranded as that term is defined by Section 2(q)(1)(F), 7 U.S.C. § 136(q)(1)(F).

23. During calendar year 2012, ECHO®720 was a pesticide, as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

24. During calendar year 2012, ECHO®720 was a registered pesticide with EPA Reg. No. 60063-7.

25. On at least one occasion in 2012, Respondent distributed or sold ECHO®720 with a label that did not bear the current labeling language accepted by EPA in connection with the registration of ECHO®720 for restrictions of usage on turf grass, application rates for sod farms, and refillable container residue removal procedures.

26. Respondent's distribution or sale of ECHO®720 constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Civil Penalty

27. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$3,050. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009. Complainant has determined that there was no economic benefit associated with the alleged violation.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$3,050 civil penalty for the FIFRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

The check must note Respondent's name and the docket number of this CAFO.

29. Respondent must send a notice of payment that states Respondent's name and the

case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Terence Bonace (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Deborah Carlson (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

30. This civil penalty is not deductible for federal tax purposes.

31. If Respondent does not pay timely the civil penalty, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

32. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15

handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

33. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

34. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

35. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.

36. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

37. The terms of this CAFO bind Respondent, its successors and assigns.

38. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

39. Each party agrees to bear its own costs and attorneys' fees, in this action.

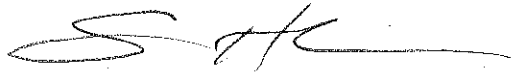
40. This CAFO constitutes the entire agreement between the parties.

In the Matter of:
Bedford Farm Supply, LLC
Docket No. FIFRA-05-2014-0025

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

7-11-2014
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

Bedford Farm Supply, LLC, Respondent

May 24, 2014
Date

Arthur C. Bedford
Arthur Bedford
President
Bedford Farm Supply, LLC

United States Environmental Protection Agency, Complainant

7/7/2014
Date

Margaret M. Guerriero
Margaret M. Guerriero
Director
Land and Chemicals Division

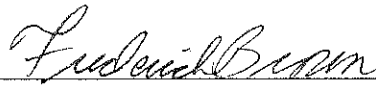
CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Bedford Farm Supply, LLC, was filed on July 16, 2014, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7649 6773, a copy of the original to the Respondent:

Mr. Arthur Bedford
Bedford Farm Supply, LLC
5425 120th Avenue
Morley, Michigan 49336

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Deborah Carlson, Regional Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD


Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. FIFRA-05-2014-0025